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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,978	07/22/2005	Luc Feyt	05102-PCT-PA	9260
72468 7590 11/09/2007 HODES, PESSIN & KATZ, P.A. 901 DULANEY VALLY ROAD, SUITE 400 BALTIMORE, MD 21204			EXAMINER MRUK, BRIAN P	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 11/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/530,978

Applicant(s)

FEYT, LUC

Examiner

Brian P. Mruk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 20, 2007 has been entered.
2. This Office action is in response to Applicant's remarks filed August 20, 2007 and October 17, 2007. Currently, claims 1-8 remain pending in the application.
3. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 20061022 and 20070415.
4. The rejection of claims 1-8 under 35 U.S.C. 103(a) as being unpatentable over May et al, U.S. Patent No. 4,652,403, in view of Kuzee et al, WO 99/64551, is maintained for the reasons of record.

Response to Arguments

5. Applicant's arguments filed August 20, 2007 have been fully considered but they are not persuasive.

Applicant argues that May et al, U.S. Patent No. 4,652,403, requires peroxy bleaching compounds in major levels, since the term "preferably", in relation to oxygen bleach, stands for usually, and since all of the examples contain oxygen bleaches. However, the examiner respectfully asserts that applicant has construed the phrase "capable of exhibiting bleachable stain removal in the absence of oxygen bleaches" that is recited in independent claim 1 to mean that the bleaching system is not an inventive parameter, and thus, that the composition may or may not include oxygen bleaches (see applicant's remarks dated January 25, 2007). Furthermore, the examiner asserts that 2% of a bleach disclosed by May et al in col. 3, line 59 is not a major level of bleach, and also maintains that the bleach component disclosed in May et al is optional, and thus, that May et al clearly discloses compositions that are free of bleach.

Applicant further argues that May et al, U.S. Patent No. 4,652,403, does not teach the required phosphonate component required in the instant claims. However, the examiner respectfully disagrees. Specifically, the phosphonate recited in col. 1, line 45 of May et al identically matches that alkylene polyamino polyphosphonate recited in claim 3 (i.e. when all four R groups in May et al are $\text{CH}_2\text{PO}_3\text{M}_2$, the compound matches instant claim 3 when n is 1, x is 0, and y is 0).

Applicant argues that the secondary reference of Kuzee et al, WO 99/64551, is non-analogous art, since Kuzee et al is directed toward industrial textile treatment, whereas the primary reference of May et al is directed toward laundry detergents. In response to applicant's argument that Kuzee et al is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be

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reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the examiner asserts that Kuzee et al is both in the field of applicant's endeavor (i.e. detergent composition for laundry and/or textiles), and is pertinent to the particular problem with which the applicant was concerned (i.e. the addition of fructan polycarboxylic acids enhance stain removal in laundry and textile applications). It is also noted by the examiner that both the primary reference of May et al and the secondary reference of Kuzee et al are analogous, since the detergent compositions for treating laundry and textiles are analogous.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00 AM-5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPM

Brian P Mruk
November 1, 2007

Brian P. Mruk

Brian P Mruk
Primary Examiner
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